

COMMISSIONERS  
GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

OPEN MEETING ITEM  
ORIGINAL



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ARIZONA CORPORATION COMMISSION

2011 NOV 22 A 10:09

AZ CORP COMMISSION  
DOCKET CONTROL

DATE: NOVEMBER 22, 2011

DOCKET NO.: E-01933A-11-0346

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Jane L. Rodda. The recommendation has been filed in the form of an Order on:

TYRONE HENRY vs. TUCSON ELECTRIC POWER COMPANY  
(COMPLAINT)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

DECEMBER 1, 2011

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

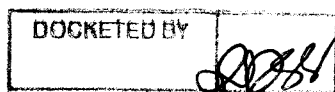
DECEMBER 13, 2011 and DECEMBER 14, 2011

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

NOV 22 2011



ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347

[WWW.AZCC.GOV](http://WWW.AZCC.GOV)

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail [SABernal@azcc.gov](mailto:SABernal@azcc.gov)

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 GARY PIERCE - Chairman  
4 BOB STUMP  
5 SANDRA D. KENNEDY  
6 PAUL NEWMAN  
7 BRENDA BURNS

8 TYRONE HENRY

DOCKET NO. E-01933A-11-0346

9 Complainant,  
10 vs.

DECISION NO. \_\_\_\_\_

11 TUCSON ELECTRIC POWER COMPANY

12 Respondent

**ORDER**  
**(Dismissal with Prejudice)**

13 Open Meeting  
14 December 13 & 14, 2011  
15 Phoenix, Arizona

16 **BY THE COMMISSION:**

17 \* \* \* \* \*

18 Having considered the entire record herein and being fully advised in the premises, the  
19 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

20 **FINDINGS OF FACT**

21 1. On September 13, 2011, a formal Complaint brought by Tyrone Henry ("Henry  
22 Complaint") against Tucson Electric Power Co. ("TEP") was docketed with the Commission.

23 2. On September 14, 2011, the Commission's Docket Control sent a copy of the Henry  
24 Complaint to TEP via certified mail.

25 3. By letter docketed September 16, 2011, TEP acknowledged receipt of the Henry  
26 Complaint, and noted that the complaint was missing page 2. A review of the record showed that the  
27 document was received at the Commission without page 2. On September 22, 2011, the  
28 Commission's Docket Control informed Ms. Raye Stiles, the mother of Mr. Henry, that the Henry  
Complaint was missing the second page and that Mr. Henry could submit the original and 13 copies

1 of page 2 (or 12 copies, if he did not want to receive a copy back) in order to correct the filing  
2 deficiency; and further, that upon receipt of the missing page, Docket Control would send the entire  
3 Henry Complaint to TEP by certified mail, and TEP would have 20 days from receipt to file its  
4 response.<sup>1</sup>

5 4. On September 22, 2011, the Commission's Docket Control received from the  
6 Complainant the original and 13 copies of a document entitled "Motion for Specific Performance."

7 5. By Procedural Order dated September 23, 2011, the Complainant was informed: 1)  
8 that the Motion for Specific Performance could not be docketed as filed; 2) how to correct the  
9 deficiencies; and 3) that upon correction of the deficiencies, a motion could be filed.

10 6. On September 28, 2011, the Complainant filed the missing page 2.

11 7. On October 14, 2011, TEP filed a Motion for Extension of Time to file its Answer.  
12 TEP stated that since the Henry Complaint was filed, TEP and Mr. Henry and Ms. Stiles had  
13 engaged in settlement discussions, and that additional time was needed to complete those talks. TEP  
14 requested an extension of time to file its Answer. TEP proposed that if a settlement is reached, TEP  
15 would file a Motion to Dismiss the Complaint as soon as practicable after execution of a settlement  
16 agreement, and if a settlement was not reached, TEP would file its Answer to the Henry Complaint  
17 within 20 days of determination that a settlement would not be possible.

18 8. Complainant did not object to the extension.

19 9. By Procedural Order dated October 17, 2011, TEP was granted an extension of time to  
20 file its Answer until 20 days after the parties determined that settlement was not possible.

21 10. On October 31, 2011, TEP filed a Motion to Dismiss, attaching a Settlement  
22 Agreement executed by Mr. Henry, Ms. Stiles, and TEP. A copy of the Settlement Agreement is  
23 attached hereto as Exhibit A, and incorporated herein by reference.

24 11. Under the settlement agreement, TEP agrees to forgo Mr. Henry's disputed debt in the  
25 amount of \$367.75 for the address 455 W. Kelso St., #121, Tucson, Arizona. Beginning with the  
26 October 20, 2011, billing statement, Mr. Henry and Ms. Stiles agree to make four monthly  
27

28 <sup>1</sup> Ms. Stiles filed her own Complaint against TEP on September 15, 2011 in Docket No. E-01993A-11-0350.

1 installment payments of \$51.21 (totaling \$204.85) for the August 2011 billing and reconnection fee  
2 for address 2018 N. Tucker Dr., Tucson, Arizona, and to make timely payment in full on future  
3 monthly billings. Mr. Henry acknowledges that if he fails to make the installment payments, or fails  
4 to make timely payments in full on all future monthly billings, he will be subject to disconnection.  
5 Mr. Henry agrees to dismissal of the Henry Complaint with prejudice.

6 12. The parties having consensually resolved their dispute in a fair and reasonable manner,  
7 the Henry Complaint should be dismissed with prejudice.

### 8 CONCLUSIONS OF LAW

9 1. TEP is a public service corporation under Article XV of the Arizona Constitution and  
10 under Arizona Revised Statutes, Title 40, generally.

11 2. The Commission has jurisdiction over TEP and the subject matter of the Henry  
12 Complaint.

13 3. Notice of the proceeding was provided in accordance with applicable law.

14 4. The consensually negotiated Settlement Agreement attached hereto as Exhibit A,  
15 resolves the issues raised in the Henry Complaint in a fair and reasonable manner, and it is in the  
16 public interest to approve the settlement agreement and dismiss this Complaint with prejudice.

### 17 ORDER

18 IT IS THEREFORE ORDERED that the Settlement Agreement entered into by Raye Stiles,  
19 Tyrone Henry and Tucson Electric Power Company, attached hereto as Exhibit A, is approved.

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that the Complaint filed by Tyrone Henry against Tucson  
2 Electric Power Company is dismissed with prejudice as provided in the Settlement Agreement.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

5  
6  
7 CHAIRMAN

COMMISSIONER

8  
9 COMMISSIONER

COMMISSIONER

COMMISSIONER

10  
11 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
12 Executive Director of the Arizona Corporation Commission,  
13 have hereunto set my hand and caused the official seal of the  
14 Commission to be affixed at the Capitol, in the City of Phoenix,  
15 this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

16  
17 ERNEST G. JOHNSON  
18 EXECUTIVE DIRECTOR

19 DISSENT \_\_\_\_\_

20 DISSENT \_\_\_\_\_

1 SERVICE LIST FOR:

TUCSON ELECTRIC POWER COMPANY

2  
3 DOCKET NO.:

E-01933A-11-0346

4  
5 Tyrone Henry  
2018 North Tucker Drive  
6 Tucson, AZ 85716

7 Michael W. Patten  
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One Arizona Center  
8 400 East Van Buren Street, Suite 800  
Phoenix, AZ 85004  
9 Attorneys for TEP

10 Bradley S. Carroll, Esq.  
TUCSON ELECTRIC POWER COMPANY  
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12 Janice Alward, Chief Counsel  
13 Legal Division  
ARIZONA CORPORATION COMMISSION  
14 1200 West Washington Street  
Phoenix, Arizona 85007

15 Steven M. Olea, Director  
16 Utilities Division  
ARIZONA CORPORATION COMMISSION  
17 1200 West Washington Street  
Phoenix, Arizona 85007

## EXHIBIT A

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is entered into by and between Tyrone Henry ("Henry"), Raye Stiles ("Stiles") and Tucson Electric Power Company ("TEP")(collectively, the "Parties").

Recitals.

A. On or about September 13, 2011, Henry filed a Complaint against TEP with the Arizona Corporation Commission ("ACC") in Docket No. E-01933A-11-0346 (the "Henry Docket").

B. On or about September 15, 2011, Stiles filed a Complaint against TEP with the ACC in Docket No. E-01933A-11-0350 (the "Stiles Docket")(together with the Henry Docket, the "ACC Dockets").

C. TEP denies the allegations asserted and denies any liability for any claims asserted in the ACC Dockets.

D. On September 30, 2011, the Parties participated in a call with ACC Staff to discuss settlement of the ACC Dockets. As a result of that call, the Parties enter into this Agreement to fully resolve the disputes and claims contained within the docketed complaints as expressly provided herein.

**TERMS AND CONDITIONS:**

1. TEP agrees to forgo Henry's disputed debt in the amount of \$367.75 (from TEP account number 4305544122 for address 455 W. Kelso St., Apt. #121, Tucson, AZ 85705.)
2. TEP agrees to forgo Stiles' disputed debt in the amount of \$332.41 (from TEP account number 4234485731 for address 734 E. Roger Road, #201, Tucson, AZ 85709).
3. Henry and Stiles agree to make four (4) monthly installment payments in the amount of \$51.21 for the August billing statement and reconnection fee totaling \$204.85 beginning on the October 20, 2011 billing statement (for TEP account number 0315518716 for address 2018 N. Tucker Dr., Tucson, AZ 85716).
4. Henry and Stiles agree to make timely payments in full on future monthly billing statements.
5. Henry and Stiles acknowledge that if they fail to make the payments set forth in Paragraph 3 above or if they fail to make timely payments in full on all future monthly billings, they will be subject to disconnection.
6. Henry and Stiles agree to the dismissal with prejudice of the ACC Dockets. Upon execution of the Settlement Agreement, the Parties agree that TEP will file the Motions

Page One of Two *RES*

*RES*

to Dismiss, attached hereto as Exhibit A, and that neither Stiles, nor Henry, will oppose said motions.

TYRONE HENRY

By [Signature]

Date Oct 25, 2011

RAYE STILES

By [Signature]

Date October 25, 2011

TUCSON ELECTRIC POWER COMPANY

By [Signature]

Its Chief Customer Officer - VP

Date 10-31-11

Page Two of Two PLS

[Signature]

DECISION NO. \_\_\_\_\_